IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPEAL NO.175 OF 2004.

The State of Maharashtra : Appellant.

versus

Rajesh Shashikant Joshi : Respondent

Mr.D.S.Mhaispurkar, APP, for the State.

CORAM : D.G.DESHPANDE,J.

DATED : 2nd September 2004.

ORAL ORDER

1. Heard Mr.Mhaispurkar, the learned APP for the State. This is an appeal filed by the State against acquittal of the accused under Sections 341, 504, 506, 451, 427 of the Indian Penal Code.

2. The complainant was the circle inspector of revenue department in 1999. He was residing at village Ashagad on rental basis. Since 1979 he was occupying one room in a chawl which consisted of five rooms. He was staying in Room No.5. On 23.5.1999 he went to Badapokharan for

residing along with his family members by locking the aforesaid room and when he came back on 20.7.1999 he found that somebody has put a new lock to his room. His name-plate was also removed. He, therefore, made a complaint to the Tahasildar and lodged a report to the police.

3. The trial Court acquitted the accused because there was no evidence either from the complainant or from any of his witnesses to the effect that it was the accused who has changed the lock or who has put his lock. No other witness was examined who could have seen changing of lock at the instance of the accused. Panchanama is obviously silent in this regard and in his statement under Section 313 of the Cr.P.C. the accused has not claimed possession of the said room or any right to the said room. The crucial aspect of the matter is, as to whether the complainant succeeded in proving that the accused had illegally taken possession of his room. The case of the prosecution is totally silent. Therefore, the trial Court is justified in acquitting the accused. Hence no interference is called for. The appeal is dismissed.

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